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10/696,069	10/28/2003	Michael Popovsky	HT03	5359

EXAMINER	
CHIN, RANDALL E	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/696,069	Applicant(s) POPOVSKY ET AL.	
	Examiner Randall Chin	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,59-63,65 and 66 is/are pending in the application.
- 4a) Of the above claim(s) 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,59-62,65 and 66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-13, 59-62, 65 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuven 5,960,506 (hereinafter Reuven) in view of McManus 6,187,728 (hereinafter McManus).

As for claim 1, the patent to Reuven discloses in Figs. 2-5 a web of filaments or fibers 20 forming a pad 10, and a solid cleansing agent soap 30 impregnated into and distributed substantially throughout said pad 10 in a quantity sufficient for multiple uses of the pad 10 in conjunction with a solvent (water) that dissolves the solid cleansing agent soap 30 for cleansing purposes (col. 3, line 38-64 and col. 4, lines 3-24). The patent to Reuven discloses all of the recited subject matter as set forth above with the exception of the solid cleansing agent soap being a pourable soap containing glycerine. The patent to McManus discloses a cleansing pad in Fig. 2b, for example, comprising a web of fibers 4 (col. 3, lines 15-18, col. 5, lines 9-12, col. 7, lines 44-50) forming a pad, and a solid cleansing agent pourable soap 5 in a quantity sufficient for multiple uses of the pad in conjunction with a solvent (water) that dissolves the solid cleansing agent pourable soap for cleansing purposes, and wherein the solid cleansing agent pourable

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soap contains glycerine (col. 3, lines 15-18 and col. 4, lines 45-57). It would have been obvious to one of ordinary skill in the art to have substituted the already known solid cleansing agent pourable soap containing glycerine of McManus for the solid cleansing agent soap of Reuven for mildness purposes to avoid any excessive abrasion associated with washing/scrubbing body parts during cleaning or for purely aesthetic reasons. As for claim 1, lines 9-14, reciting that the solid cleansing agent pourable soap is in essentially solid form at a first temperature range of less than about 120°F, becomes a pourable liquid when heated to a second temperature range of from about 120°F to about 160°F, and resolidifies into essentially solid form when cooled after step (iii) to the first temperature range of less than about 120°F, the Reuven reference, as modified by McManus, meets such recitations.

As for claim 3, in Reuven, the pad comprises synthetic materials (col. 3, lines 47-51).

As for claim 4, in Reuven, the pad comprises naturally occurring materials (e.g., cotton as recited at col. 3, lines 47-51).

As for claim 5, in Reuven, the pad is deemed porous (col. 4, lines 20-24).

As for claim 6 reciting that the pad comprises a non-porous substrate, it would have been obvious to one of ordinary skill to have modified Reuven's device such that the pad comprises a non-porous substrate, if one desired, to limit or eliminate any absorption of liquids into the pad itself and such would also depend on the particular cleansing task at hand.

As for claim 7, in the Reuven pad as modified by McManus, the pad can comprise a sponge in order to provide a more comfortable device for handling during a washing/scrubbing operation (col. 6, line 1 to col. 7, line 12).

As for claims 8 and 9, whether the pad is woven or non-woven is well within the level of ordinary skill in the cleansing pad art and is conventionally known. They are deemed mere mechanical equivalents of one another for their excellent cleaning characteristics and the choice of either would depend on the particular cleansing task at hand.

As for claims 10 and 11, the claimed weight ratios are deemed within the level of ordinary skill and merely depends on desired final design and aesthetic considerations.

As for claim 12, in Reuven, the solid cleansing agent pourable soap distributed substantially throughout the pad is comprised of one or more fragrances (col. 3, lines 60-61 and col. 4, lines 9-12).

As for claim 13, Reuven, as modified by McManus, can include colorants for aesthetic purposes (col. 10, lines 16-22).

As for claim 59, in the modified Reuven device, the solid cleansing agent pourable soap consists essentially of natural soap (col. 5, lines 15-34).

As for claim 60, in the modified Reuven device, the solid cleansing agent pourable soap is comprised of alkali salts of mixed fatty acids (col. 4, lines 45-57).

As for claims 61 and 62, in the modified Reuven device, the natural solid cleansing agent pourable soap is deemed essentially free or free of synthetic detergents.

As for claim 65, the cleansing pad of McManus, for example, is deemed sufficient for at least 20 baths or showers (col. 12, lines 5-7) since there is no definitive time standard set forth as to what actually constitutes a "use" here.

Claim 66 is rejected similarly as above for claim 1. It will be added that Reuven's (col. 1, lines 5-7) or McManus' (col. 1, lines 7-10) cleansing pad is a "personal care pad for cleansing the human body".

Conclusion

3. Applicant's arguments with respect to claims 1, 3-13, 59-62, 65 and 66 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's Declaration of Eric Jungermann filed 17 June 2009 has been considered in its entirety, however, is deemed unpersuasive in view of the above new grounds of rejection necessitated by amendment.

As for item numbers 8. and 9. in the Declaration, declarant's remarks are noted and considered. Notwithstanding, the disclosed glycerine of McManus is deemed to meet the recitations of claim 1, lines 9-14 and claim 66, lines 10-15. Clearly, the intent of the glycerine soap in solid form in McManus is intended to be used in a shower or bath environment, as is similarly done in Applicant's invention. Clearly, McManus' explicit statement that the soap comes in small cubes that can be heated to 160 degrees F meets the recitations of claim 1, lines 9-14 and claim 66, lines 10-15 and since McManus' soap is intended to be in solid form at least at room temperature which would be less than 120 degrees F. Further, Declarant's assertion of melting at 100

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degrees F is not being specifically recited/claimed. Melting and/or solidifying is in no way a requirement for bathing here. Such recitations are simply properties of the soap. Also, one of ordinary skill or McManus clearly recognizes that 160 degrees F is a very hot temperature unsuitable for bathing and a 160 degree F bath or shower would never be contemplated by McManus in the first place, particularly, in view of the fact that McManus intended environment is use in a shower or bathing stall. In any case, McManus is deemed to teach the recited pourable glycerine soap (which is the **same exact claimed material** as set forth in Applicant's claims 1 and 66), which even assuming arguendo, did not meet the recited melting/resolidifying properties, at the very least, that such properties would still be obvious to one of ordinary skill through simple optimization techniques since both the instant invention and McManus (col. 1, lines 17-27, for example) are already intended to be used in similar bathing environments for personal care purposes.

As for item number 10. in the Declaration, again, there is no definitive time standard set forth as to what actually constitutes a "use" or time duration of a "bath" or "shower" here.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Levine, Fisher, Jr., Ruff, and McAtee are relevant to various impregnated scrubbing pads.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723